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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,375	12/19/2000	Samuel N. Zellner	00382	4937

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EXAMINER

DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/740,375

Applicant(s)

ZELLNER ET AL.

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 have been examined.

Response to Amendment

2. The Amendment filed on 12/27/04 is sufficient to overcome the Kulakowski and Obradovich references.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/27/04 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-14, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bandera (6,332,127) in view of Goldhaber (5,794,210).

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Claim 1-14, 16-20:

Bandera discloses receiving current location of the user of a wireless device as the user moves about (col 2, lines 35-54); searching and selecting location specific advertisements for the current location of the user (Fig. 6; col 7, lines 9-20); and the utilization of a packet based message over a communication network (col 10, lines 4-8; col 1, lines 10-30). Bandera further discloses continuously monitoring user location and also sending multiple advertisements to the user (col 9, lines 30-41).

Also, Examiner notes that the Internet is a packet based communication network as stated in the cisco.com website http://www.cisco.com/univercd/cc/td/doc/cisintwk/ito_doc/ip.htm:

“Internet Protocol (IP)

The Internet Protocol (IP) is a network-layer (Layer 3) protocol that contains addressing information and some control information that enables packets to be routed. IP is documented in RFC 791 and is the primary network-layer protocol in the Internet protocol suite. Along with the Transmission Control Protocol (TCP), IP represents the heart of the Internet protocols. IP has two primary responsibilities: providing connectionless, best-effort delivery of datagrams through an internetwork; and providing fragmentation and reassembly of datagrams to support data links with different maximum-transmission unit (MTU) sizes.

IP Packet Format

An IP packet contains several types of information.”

Bandera further discloses matching user location and location based ads in a database (Fig. 6).

Bandera further discloses obtaining user location information without obtaining user identity information (col 2, lines 40-54).

Bandera further discloses utilizing digital audio and digital text (col 1, lines 26-30; col 1, lines 44-51).

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Bandera further discloses targeting a user based on information about a user (col 1, line 65-col 2, line 10).

Goldhaber further discloses targeting users with content based on geographic areas (col 2, lines 27-35; col 15, lines 15-21) and that user geographic area information is known (col 13, lines 5-11).

Goldhaber discloses profiling a user, targeting content or advertising to a user based on known user information, maintaining user privacy, that user's can release user identifying information if the user so chooses (Abstract, second half; col 6, lines 22-45; col 7, lines 61-67; col 14, lines 10-17).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Goldhaber's advanced features for targeting a user based on user information to Bandera's targeting a user based on known information and user location information. One would have been motivated to do this in order to provide a better way to provide relevant content and advertising to user(s).

Goldhaber further discloses the user pre-selecting criteria for content or advertising of interest (col 5, lines 5-16; col 18, lines 5-12).

Goldhaber further discloses obtaining second information about the identity of the user for a fee (col 6, line 64-col 7, line 5; col 17, lines 20-26; col 14, lines 7-10).

Goldhaber further discloses information provider who maintain and provide information about the user (Fig. 10; Fig. 7; col 15, line 55-col 16, line 5).

Goldhaber discloses, as referenced above, that the user can provide the user's identity when the user chooses to do. Furthermore, it is obvious that a user emergency can benefit from

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being able to identify who the user is in need. Therefore, it would be obvious that the user's identity can be provided in case of an emergency help request from the user. One would be motivated to do this that since the user himself has indicated that he is in dire need, the user is interested in receiving help.

Goldhaber further discloses soliciting second information from the user (Fig. 7; col 7, lines 7-20; col 12, line 45-col 14, line 16) and extracting second information from a message transmitted by the user (col 7, lines 7-20; col 12, line 45-col 14, line 16). Note that user identity in the form of user name or user email or user address information can be taken from the message the user sends to register for the service. Also, information about user identity such as user interests, user plans, user preferences, can be taken from communications of the user that are monitored.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bandera (6,332,127) in view of Goldhaber (5,794,210) and in view of Bergh (6,112,186).

Bandera and Bergh disclose the method above.

Bandera further discloses providing relevant user information to advertisers for location based advertising (col 9, lines 345-55; col 6, lines 40-45).

Bandera does not explicitly disclose charging for user information.

However, Goldhaber discloses an auction to pay for user attention (col 4, lines 46-62) and that users can be paid for certain information (col 12, lines 52-60).

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Additionally, Bergh discloses charging a fee for user information relevant to advertising (col 32, lines 50-61; col 33, lines 6-26; col 31, lines 44-49). Bergh also discloses tracking user location information (col 10, line 61-col 11, line 3).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Bandera can charge for the advertising relevant information . One would have been motivated to do this in order to generate revenue for information that is deemed of value to many advertisers.

Response to Arguments

6. Applicant's arguments with respect to claims 1-20 have been considered but are moot in grounds of the new rejection.

Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. Hollenberg (6,091,956) discloses location based advertising;
- b. Obradovich (6,133,853) discloses location based advertising;
- c. Fano (6,317,718) discloses location based advertising.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur Duran
Patent Examiner
2/10/05